

HOUSE BILL No. 4051

January 22, 2015, Introduced by Reps. Farrington and Chang and referred to the Committee on Tax Policy.

A bill to amend 1941 PA 122, entitled

"An act to establish the revenue collection duties of the department of treasury; to prescribe its powers and duties as the revenue collection agency of this state; to prescribe certain powers and duties of the state treasurer; to establish the collection duties of certain other state departments for money or accounts owed to this state; to regulate the importation, stamping, and disposition of certain tobacco products; to provide for the transfer of powers and duties now vested in certain other state boards, commissions, departments, and offices; to prescribe certain duties of and require certain reports from the department of treasury; to provide procedures for the payment, administration, audit, assessment, levy of interests or penalties on, and appeals of taxes and tax liability; to prescribe its powers and duties if an agreement to act as agent for a city to administer, collect, and enforce the city income tax act on behalf of a city is entered into with any city; to provide an appropriation; to abolish the state board of tax administration; to prescribe penalties and provide remedies; and to declare the effect of this act,"

by amending section 28 (MCL 205.28), as amended by 2014 PA 240.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 28. (1) The following conditions apply to all taxes
2 administered under this act unless otherwise provided for in the

1 specific tax statute:

2 (a) Notice, if required, shall be given either by personal
3 service or by certified mail addressed to the last known address of
4 the taxpayer. Service upon the department may be made in the same
5 manner.

6 (b) An injunction shall not issue to stay proceedings for the
7 assessment and collection of a tax.

8 (c) In addition to the mode of collection provided in this
9 act, the department may institute an action at law in any county in
10 which the taxpayer resides or transacts business.

11 (d) The state treasurer may request in writing information or
12 records in the possession of any other department, institution, or
13 agency of state government for the performance of duties under this
14 act. Departments, institutions, or agencies of state government
15 shall furnish the information and records upon receipt of the state
16 treasurer's request. Upon request of the state treasurer, any
17 department, institution, or agency of state government shall hold a
18 hearing under the administrative procedures act of 1969, 1969 PA
19 306, MCL 24.201 to 24.328, to consider withholding a license or
20 permit of a person for nonpayment of taxes or accounts collected
21 under this act.

22 (e) Except as otherwise provided in sections 23a and 30c, the
23 state treasurer or an employee of the department shall not
24 compromise or reduce in any manner the taxes due to or claimed by
25 this state or unpaid accounts or amounts due to any department,
26 institution, or agency of state government. This subdivision does
27 not prevent a compromise of interest or penalties, or both.

1 (f) Except as otherwise provided in this subdivision, in
2 subsection (6) or (7), or in section 23a, an employee, authorized
3 representative, or former employee or authorized representative of
4 the department or anyone connected with the department shall not
5 divulge any facts or information obtained in connection with the
6 administration of a tax or information or parameters that would
7 enable a person to ascertain the audit selection or processing
8 criteria of the department for a tax administered by the
9 department. An employee or authorized representative shall not
10 willfully inspect any return or information contained in a return
11 unless it is appropriate for the proper administration of a tax law
12 administered under this act. A person may disclose information
13 described in this subdivision if the disclosure is required for the
14 proper administration of a tax law administered under this act or
15 the general property tax act, 1893 PA 206, MCL 211.1 to 211.155,
16 pursuant to a judicial order sought by an agency charged with the
17 duty of enforcing or investigating support obligations pursuant to
18 an order of a court in a domestic relations matter as that term is
19 defined in section 2 of the friend of the court act, 1982 PA 294,
20 MCL 552.502, or pursuant to a judicial order sought by an agency of
21 the federal, state, or local government charged with the
22 responsibility for the administration or enforcement of criminal
23 law for purposes of investigating or prosecuting criminal matters
24 or for federal or state grand jury proceedings or a judicial order
25 if the taxpayer's liability for a tax administered under this act
26 is to be adjudicated by the court that issued the judicial order. A
27 person required to disclose information under section 10(1)(j) of

1 the Michigan economic growth authority act, 1995 PA 24, MCL
2 207.810, may disclose the information only to the individuals
3 described in that section. A person may disclose the adjusted gross
4 receipts and the wagering tax paid by a casino licensee licensed
5 under the Michigan gaming control and revenue act, 1996 IL 1, MCL
6 432.201 to 432.226, pursuant to section 18, sections 341, 342, and
7 386 of the management and budget act, 1984 PA 431, MCL 18.1341,
8 18.1342, and 18.1386, or authorization by the executive director of
9 the gaming control board. However, the state treasurer or a person
10 designated by the state treasurer may divulge information set forth
11 or disclosed in a return or report or by an investigation or audit
12 to any department, institution, or agency of state government upon
13 receipt of a written request from a head of the department,
14 institution, or agency of state government if it is required for
15 the effective administration or enforcement of the laws of this
16 state, to a proper officer of the United States department of
17 treasury, and to a proper officer of another state reciprocating in
18 this privilege. The state treasurer may enter into reciprocal
19 agreements with other departments of state government, the United
20 States department of treasury, local governmental units within this
21 state, or taxing officials of other states for the enforcement,
22 collection, and exchange of data after ascertaining that any
23 information provided will be subject to confidentiality
24 restrictions substantially the same as the provisions of this act.
25 **THE STATE TREASURER OR A PERSON DESIGNATED BY THE STATE TREASURER**
26 **MAY DISCLOSE THE ADDRESS OF EACH HOUSING UNIT THAT IS PART OF A**
27 **HOUSING PROJECT EXEMPT FROM AD VALOREM TAXES UNDER SECTION 15A OF**

1 THE STATE HOUSING DEVELOPMENT AUTHORITY ACT OF 1966, 1966 PA 346,
2 MCL 125.1415A, OR UNDER SECTION 11A OF 1933 (EX SESS) PA 18, MCL
3 125.661A, AND WHETHER THE UNIT IS SUBJECT TO A SERVICE CHARGE IN
4 LIEU OF AD VALOREM TAXES. THE STATE TREASURER OR A PERSON
5 DESIGNATED BY THE STATE TREASURER MAY ALSO DISCLOSE THE MILLAGE
6 RATES OF PROPERTY TAXES AS DEFINED IN SECTION 512A OF THE INCOME
7 TAX ACT OF 1967, 1967 PA 281, MCL 206.512A.

8 (2) A person who violates subsection (1)(e), (1)(f), or (4) is
9 guilty of a felony, punishable by a fine of not more than
10 \$5,000.00, or imprisonment for not more than 5 years, or both,
11 together with the costs of prosecution. In addition, if the offense
12 is committed by an employee of this state, the person shall be
13 dismissed from office or discharged from employment upon
14 conviction.

15 (3) A person liable for any tax administered under this act
16 shall keep accurate and complete records necessary for the proper
17 determination of tax liability as required by law or rule of the
18 department.

19 (4) A person who receives information under subsection (1)(f)
20 for the proper administration of the general property tax act, 1893
21 PA 206, MCL 211.1 to 211.155, shall not willfully disclose that
22 information for any purpose other than the administration of the
23 general property tax act, 1893 PA 206, MCL 211.1 to 211.155. A
24 person who violates this subsection is subject to the penalties
25 provided in subsection (2).

26 (5) A person identified in section 10(1) of the Michigan
27 economic growth authority act, 1995 PA 24, MCL 207.810, who

1 receives information under section 10(1)(j) of the Michigan
2 economic growth authority act, 1995 PA 24, MCL 207.810, as
3 permitted in subsection (1)(f), shall not willfully disclose that
4 information for any purpose other than the proper administration of
5 his or her legislative duties nor disclose that information to
6 anyone other than an employee of the legislature, who is also bound
7 by the same restrictions. A person who violates this subsection is
8 responsible for and subject to a civil fine of not more than
9 \$5,000.00 per violation.

10 (6) The department shall annually prepare a report containing
11 statistics described in this subsection concerning the Michigan
12 business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, for the
13 most recent tax year for which reliable return data have been
14 processed and cleared in the ordinary course of return processing
15 by the department. A copy of the report shall be provided to the
16 chairpersons of the senate and house of representatives standing
17 committees that have jurisdiction over matters relating to taxation
18 and finance, the director of the senate fiscal agency, and the
19 director of the house fiscal agency. The department shall report
20 the following information broken down by business sector and,
21 provided that no grouping consists of fewer than 10 taxpayers, by
22 firm size in compliance with subsection (1)(f) and in a manner that
23 does not result in the disclosure of information regarding any
24 specific taxpayer:

- 25 (a) Apportioned business income tax base.
26 (b) Apportioned modified gross receipts tax base.
27 (c) Business income tax liability.

1 (d) Use of credits.

2 (e) Modified gross receipts tax liability.

3 (f) Total final liability.

4 (g) Total liability before credits.

5 (7) A person may disclose the following information described
6 in this subsection:

7 (a) Information required to be reported under section 455 of
8 the Michigan business tax act, 2007 PA 36, MCL 208.1455.

9 (b) An application to enter into an agreement, a communication
10 denying an application to enter into an agreement, an agreement, a
11 postproduction certificate, a communication denying a
12 postproduction certificate, or the total amount of credits claimed
13 in a tax year under section 455 of the Michigan business tax act,
14 2007 PA 36, MCL 208.1455, notwithstanding section 455(6) of the
15 Michigan business tax act, 2007 PA 36, MCL 408.1455.

16 (c) An application to enter into an agreement, a communication
17 denying an application to enter into an agreement, an agreement, an
18 investment expenditure certificate, a communication denying an
19 investment expenditure certificate, or the total amount of credits
20 claimed in a tax year under section 457 of the Michigan business
21 tax act, 2007 PA 36, MCL 208.1457, notwithstanding section 457(6)
22 of the Michigan business tax act, 2007 PA 36, MCL 408.1457.

23 (d) An application to enter into an agreement, a communication
24 denying an application to enter into an agreement, an agreement, a
25 qualified job training expenditures certificate, a communication
26 denying a qualified job training expenditures certificate, or the
27 total amount of credits claimed in a tax year under section 459 of

1 the Michigan business tax act, 2007 PA 36, MCL 208.1459,
2 notwithstanding section 459(6) of the Michigan business tax act,
3 2007 PA 36, MCL 408.1459.

4 (8) As used in subsection (1), "adjusted gross receipts" and
5 "wagering tax" mean those terms as described in the Michigan gaming
6 control and revenue act, 1996 IL 1, MCL 432.201 to 432.226.